

IN RE: PETITION FOR ZONING VARIANCE  
S/S Old Battlegrove Road  
1313' W of c/l North Point Rd.  
7633 Old Battle Grove Road  
15th Election District  
7th Councilmanic District

BEFORE THE  
ZONING COMMISSIONER  
OF BALTIMORE COUNTY  
Case No. 90-44-A

Earl Adkins, Jr., et ux  
Petitioners

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Sections 1802.3.C.1, 301.1 and 400.1 to permit a 7 ft. side yard setback for a building addition, a 5 ft. side yard setback for an open projection (deck) and two accessory buildings in the side yard, in lieu of the minimum 10 ft., 7-1/2 inches and rear yard respectively, in accordance with Petitioners' Exhibit 1.

The Petitioners appeared and testified. There were no Protestants. Testimony indicated that the subject property, known as 7633 Old Battle Grove Road, consists of approximately 6,964 sq. ft. +/-, zoned D.R.5.5, is currently improved with a one-story single family dwelling unit, a detached single car garage and two detached storage sheds located in the rear yard. The property is located in a fully developed section of Baltimore County and the Petitioners wish to place an addition on the rear of the existing dwelling house that will contain a large family room and an outdoor deck.

The Petitioners testified that they desire to maintain the existence of the detached garage and one of the two storage sheds. The storage shed which is shown on Petitioners' Exhibit 1 as a 10'x10' structure will be razed on or before July 1, 1990. The proposed addition will be a single story structure containing a large family room. There will be no basement

under the structure and the deck will be an open projection deck with no roof or walls other than the side of the deck attached to the proposed addition.

The Petitioners also testified as to the standard set forth in Section 307.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) and as to the requirements established under Sections 307 and 500.14 of the B.C.Z.R. concerning variances within the Chesapeake Bay Critical Area.

Based upon the testimony and evidence presented at the hearing, all of which was uncontradicted, in the opinion of the Zoning Commissioner, the relief requested sufficiently complies with the requirements of Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.) and, therefore, should be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioners.

After due consideration of the testimony and evidence presented, in the opinion of the Zoning Commissioner, the relief requested sufficiently complies with the requirements of Sections 307.1, 307.2 and 500.14 of the Baltimore County Zoning Regulations (B.C.Z.R.) and should therefore be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

The facts and evidence presented tend to establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore

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County; that to deny the relief requested would result in practical difficulty, unreasonable hardship, or severe economic hardship upon the Petitioner; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. Clearly, the request is not based upon conditions or circumstances which are the result of the Petitioner's actions, nor does the request arise from a condition relating to land or building use, either permitted or nonconforming, on another property. The relief requested is in harmony with the general spirit and intent of the Critical Areas legislation for Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

- 1) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have run off from surrounding lands;
- 2) Conserve fish, wildlife, and plant habitat; and
- 3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

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These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 16<sup>th</sup> day of August, 1989 that the Petition to permit a 7 ft. side yard setback for a building addition, a 5 ft. side yard setback for an open projection (deck) and two accessory buildings in the side yard, in lieu of the minimum 10 ft. 7-1/2 inches and rear yard respectively be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) Compliance with the comments submitted by the Baltimore County Zoning Plans Advisory Committee (ZAC), which are adopted in their entirety and made a part of this Order.
- 3) Petitioners shall comply with all requirements of the Zoning Plans Advisory Committee (ZAC) as set forth in the comments submitted by the Dept. of Environmental and Resource Management, dated July 31, 1989, attached hereto and made a part hereof.

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4. Upon request and reasonable notice, the Petitioners shall permit a representative of the Zoning Enforcement Division to make an inspection of the subject property to insure compliance with this Order.

5. The existing 10x10 storage shed shown on Petitioners' Exhibit 1 shall be razed and all debris removed from the subject site on or before July 1, 1990.

*J. Robert Haines*  
JOHN HAINES  
Zoning Commissioner  
for Baltimore County

JRH/mm

cc: Peoples Counsel

cc: Mr. Robert W. Sheesley, Director  
Department of Environmental Protection and Resource Management

File No. 90-44-A

#### BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines  
Zoning Commissioner

DATE: July 31, 1989

FROM: Mr. Robert W. Sheesley

SUBJECT: Petition for Zoning Variance - Item 497  
Adkins Property  
Chesapeake Bay Critical Area Findings

RECEIVED  
AUG 8 1989  
ZONING OFFICE

#### SITE LOCATION

The subject property is located at 7633 Old Battle Grove Road. The site is within the Chesapeake Bay Critical Area and is classified as a limited development area (LDA).

APPLICANT'S NAME Mr. and Mrs. Earl Adkins Jr.

#### APPLICANT PROPOSAL

The applicant has requested a variance from section 1802.3.C.1, 301.1 and 400.1 of the Baltimore County Zoning Regulations to allow a 7' side yard setback for a building addition, a 5' side yard setback for an open projection (deck) and two accessory buildings in the side yard in lieu of the min. 10', 7.5' and rear yard, respectively.

#### GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts."

<COMAR 14.15.10.01.0>

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#### REGULATIONS AND FINDINGS

1. Regulation: "A minimum 100 foot buffer shall be established landward from the mean high water line of tidal waters, tidal wetlands, and tributary streams" <Baltimore County Code Sec. 22-213(a)>.

Finding: This property is located approximately 300 feet from the tidal waters of Bear Creek, and therefore is in compliance with the regulation stated above.

2. Regulation: "No dredging, filling, or construction in any wetland shall be permitted. Any wetland must be adequately protected from contamination." <Baltimore County Code Sec. 22-98>

Finding: No tidal or non-tidal wetlands were found on this site, or in the vicinity of the site and therefore none will be disturbed by the proposed project.

3. Regulation: "Infiltration of storm water shall be maximized throughout the site, rather than directing flow to single discharge points" <Baltimore County Code, Sec. 22-217(a)2>.

#### Findings:

- a. Storm water runoff shall be directed from impervious surfaces associated with this petition to pervious areas to encourage maximum infiltration.
- b. Rooftop runoff shall be directed through down-spouts and into Dutch drains or seepage pits to encourage maximum infiltration (see attached information).

4. Regulation: "If no forest or developed woodland exists on a developed site these sites shall be planted to provide forest or developed woodland cover of at least 15%" <COMAR 14.15.02.04 C.(5)>.

Finding: The following plant material shall be selected from the enclosed list and planted to provide a 15% forested cover.

Shrub and small tree list: three items - ball and burlap or 2 gallon container size

Tree list: one item - a minimum 4 foot size

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5. Regulation: "The sum of all man-made impervious areas shall not exceed 15% of the lot" <COMAR 14.15.02.04 C.(7)>.

Finding: The sum of the existing impervious surfaces equals 33% of the lot. The applicant proposes to replace the existing driveway with a porous stone surface so that the proposed addition will not increase the sum of impervious surfaces. This property shall not be allowed to increase the sum of impervious surfaces to exceed the existing 33% of the lot.

#### CONCLUSION

It is recommended that this Petition for a Zoning Variance be conditioned with the Chesapeake Bay Critical Area Regulations and findings listed above. Upon compliance with the above regulations, this project shall be approved. Please contact Mr. David Flowers at 887-3980 for more information.

*Robert W. Sheesley*  
Robert W. Sheesley, Director  
Department of Environmental Protection  
and Resource Management

RWS:DCF:ju  
Attachment

cc: The Honorable Ronald B. Hickernell  
The Honorable Norman R. Lauenstein  
The Honorable Dale T. Volz

ORDER RECEIVED FOR FILING  
Date 8/16/89  
By M. D. Smith







Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

J. Robert Haines  
Zoning Commissioner

July 5, 1989

# NOTICE OF HEARING



Dennis F. Rasmussen  
County Executive

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance  
CASE: NPBCH: 90-44-A  
S/S Old Battle Grove Road, 1313' W of c/l of North Point Road  
7633 Old Battle Grove Road  
15th Election District - 7th Councilmanic  
Petitioner(s): Earl Adkins, Jr., et ux  
HEARING SCHEDULED: THURSDAY, AUGUST 10, 1989 at 11:00 a.m.

Variances To permit a 7 ft. side yard setback for a building addition, a 5 ft. side yard setback for an open projection (deck) and two accessory buildings in the side yard in lieu of the minimum 10 ft., 7 1/2 ft and rear yard, respectively.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

*J. Robert Haines*

J. ROBERT HAINES  
ZONING COMMISSIONER  
BALTIMORE COUNTY, MARYLAND

JRH:js

cc: Mr. & Mrs. Adkins, Jr., et ux  
File

## ZONING DESCRIPTION

## CRITICAL AREA

Beginning on the south side of Old Battle Grove Road 40 feet wide, at the distance of 1313 feet west of the centerline of North Point Blvd. Being Lot 223, in the subdivision of Battle Grove. Book No. WPG No. 8 Folio 94.

